

BOIES SCHILLER FLEXNER LLP
RICHARD J. POCKER, ESQ.
Nevada Bar No. 3568
300 South Fourth Street, Suite 800
Las Vegas, Nevada 89101
Telephone (702) 382-7300

Attorneys for Defendant
GLEN EDWARD GARNER

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No.: 2:18-cr-00317-JAD-VCF
)	
v.)	
)	
GLEN EDWARD GARNER,)	
)	
Defendant.)	
_____)	

STIPULATION AND ORDER TO CONTINUE DEADLINE FOR FILING OF
PRETRIAL MOTIONS AND RELATED DATES
(Thirteenth Request)

IT IS HEREBY STIPULATED AND AGREED, by and between Defendant GLEN EDWARD GARNER, by and through his attorney (Richard J. Pocker, Esq. of the law firm of Boies Schiller Flexner LLP), and the Plaintiff UNITED STATES OF AMERICA (hereinafter, “the Government”), by and through its attorney (Assistant United States Attorney Kevin Schiff), that the deadline for the filing of pretrial motions be extended to December 4, 2020, and the due date for any responses to pretrial motions be extended to December 18, 2020.

This Stipulation is entered into for the following reasons:

1. The present case is currently set for trial on February 23, 2020. The date by which pretrial motions are to be filed is November 20, 2020, just 8 days away. As noted in

1 earlier filings, the Government, as a result of motion practice throughout the past year, has
2 discovered and provided relevant tape recordings of conversations between the key witness
3 against Defendant GARNER and a person alleged to be Defendant GARNER, gathered through
4 the electronic surveillance authorized in another investigation. Although the Government has
5 made the disclosure of these recordings, as well as much of the Title III paperwork associated
6 with the electronic surveillance in the past few months, Defendant GARNER has not had the
7 opportunity to review these materials given the combination of the Protective Order entered by
8 U.S. Magistrate Judge Ferenbach and the worldwide COVID-19 public health crisis, which has
9 prevented Defendant GARNER from accessing counsel's offices, which is the only location at
10 which he is permitted to review or analyze documents and recordings. The Government is not
11 willing to stipulate to alteration of the Protective Order, in light of concerns that some of the
12 sensitive discovery materials made available pursuant to its terms might (if disseminated or
13 discussed in the community) endanger witnesses or investigative activities. In addition,
14 Defendant GARNER's counsel has engaged Michael Levine, an expert on criminal
15 investigative procedures and a former supervisor with the U.S. Drug Enforcement
16 Administration, to examine and analyze materials in the extensive discovery produced to date,
17 especially with respect to wiretaps, recordings and electronic surveillance records. Mr. Levine
18 has not yet been able to complete the analysis required by Defendant GARNER's counsel.

19 2. Defendant GARNER, his counsel and Mr. Levine are engaged in analyzing
20 evidence and preparing to file necessary pretrial motions. Counsel for Defendant GARNER
21 requests additional time to review and analyze the discovery materials provided by the
22 Government, and to meet and strategize with Defendant GARNER as well as to receive and
23 utilize the assistance of Mr. Levine.

24 3. In addition to the above-referenced procedural considerations, the recent public
25 health crisis posed by the COVID 19 pandemic has impacted the ability of Defendant
26 GARNER and his counsel to effectively prepare the necessary pretrial motions, given the
27 medical and governmental restrictions attendant to the local Nevada community. Given the
28 necessity of preparing and assembling such motions in a situation where face to face meetings

1 between client and counsel are inadvisable and counsel's staff is working remotely, a short
2 additional extension of deadlines related to pretrial motions is necessary. Such an extension
3 will have no effect on the February 23, 2020 trial setting. The parties hereby agree that the due
4 date for pretrial motions should be extended from November 20, 2020 to December 4, 2020,
5 and that the deadline for responding to these motions be extended to December 18, 2020.

6 4. Counsel for both Defendant GARNER and the Government are in agreement
7 with respect to the Defendant's need for a continuance of the due date for pretrial motions.

8 5. Defendant GARNER is free on pretrial release pending trial, and has no
9 objection to the requested continuance, as it will enhance the thoroughness of his trial
10 preparation. He is insistent on receiving as much helpful and useful evidence as possible in
11 response to his earlier motions, and to having his pretrial motions as comprehensive as
12 possible.

13 6. Denial of this request for continuance will result in a miscarriage of justice,
14 given the necessity of further informed preparation by Defendant GARNER and his counsel,
15 with access to the additional materials Mr. Levine or the Government might make available,
16 and taking into account the restrictions upon conduct created by the pandemic.

17 7. The extension of deadlines contemplated by this Stipulation does not impact the
18 currently scheduled trial date of February 23, 2020. Nonetheless, the additional time requested
19 by this Stipulation is excludable in computing the time in which the trial herein must
20 commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section
21 3161(h)(7)(A), when considering the factors under Title 18, United States Code, Sections
22 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

1 8. This is the thirteenth request for an extension of the date by which pretrial
2 motions must be filed, although most of those earlier requests were in conjunction with
3 stipulations to continue the trial date.

4 DATED this 12th day of November, 2020.

5 BOIES SCHILLER FLEXNER LLP

NICHOLAS A. TRUTANICH
United States Attorney

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7 By: /s/ Richard J. Pocker
8 RICHARD J. POCKER, ESQ.
 Counsel for Glen Edward Garner

By: /s/ Kevin Schiff
KEVIN SCHIFF
Assistant United States Attorney

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RICHARD J. POCKER, ESQ.
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I.

FINDINGS OF FACT

Based upon the pending Stipulation of counsel, and good cause appearing therefor, the Court finds that:

1. The present case is currently set for trial on February 23, 2020, and the deadline for filing pretrial motions is November 20, 2020. Counsel for Defendant GARNER requests additional time to review and analyze the additional discovery materials to be provided by the Government and to meet and strategize with Defendant GARNER, as well as to receive the complete assistance of his retained expert, Michael Levine.

2. Counsel for both Defendant GARNER and the Government are in agreement with respect to the Defendant's need for continuance of the due date for the filing of pretrial motions.

1 The continuance sought herein is excludable under the Speedy Trial Act, Title 18,
2 United States Code, Section 3161(h)(7)(A), when considering the factors under Title 18, United
3 States Code, Sections 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

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6 **ORDER**

7 Based on the pending Stipulation of counsel, and good cause appearing,
8 IT IS FURTHER ORDERED that all additional Pretrial Motions are due on or before
9 December 4, 2020 and Responses thereto are due on December 18, 2020. Replies due on or
10 before December 31, 2020.

11 DATED this 18th day of November, 2020.

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15 UNITED STATES DISTRICT JUDGE
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